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REMARKS

Claims 6, 10-15 and 21-26 are pending in the application. Claims 24, 25, and 26 are independent claims. Claims 1-5, 7-8, and 20 are cancelled without prejudice or disclaimer of the subject matter recited therein.

Claims 24-26 are added herein. Claims 24-26 find support in the specification and figures as originally filed. No new matter is added by virtue of the new claims. Claim 6 is amended to depend from new claim 24, claims 10 and 13 are amended to depend from new claim 25 and claims 21 and 23 are amended to depend from and reflect the language of new claim 26. Claims 10-13 are also amended to reflect the claim language of new claim 25. No new matter is added by virtue of the claim amendments.

Claims 1-8, 10-15 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nankai et al. (USPN 5,120,420). Independent claims 1, 8, and 20 along with dependent claims 2-5 and 7 are cancelled without prejudice or disclaimer of the subject matter recited therein.

Nankai et al. discloses a biosensor that includes a base plate having an electrode system. By integrating with a cover, a space including the reaction layer is formed and an introducing port for introducing a sample solution into the space and a discharge port for discharging a gas in the space by inflow of the sample solution. See, Column 3 lines 5-15.

It is submitted that the resulting modification proffered by the rejection fails to show or suggest a device as recited in new claims 24, 25, and 26.

Differences between the claimed biosensor and the biosensor of Nankai et al. exist by Nankai et al.'s teaching of its spacer that defines its space (8) and its positioning of electrodes in the resulting space (8). Nankai et al. at most teaches that its spacer (7) is comprised of an individual resin plate (Column 5 lines 6-7 and Figures 4-6, 8-9, and 11-13) or of two parts (7) and (7') (Column 7 lines 58-59 and Figure 10). Such

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structures and their resulting space (8) are in direct contrast to the biosensors recited in claims 24-26 respectively.

In order to highlight the differences between the biosensors of claims 24-26 and the biosensor of Nankai et al., the Examiner's attention is first directed to Figures 3-6 and 8-13 of Nankai et al where the introducing port (10) of space (8) is illustrated. It is noted that the application of a sample to the port (10) is always at an end of the space (8).

Regarding claim 24, Applicants ignored Nankai et al.'s teaching of the port (10) at the end of the space (8) and taught instead that it biosensor comprise a channel having opposing ends and a concave inlet extending from the first end of the support and being positioned between the opposing ends of the channel. None of the illustrations of Nankai et al.'s port (10) provide such a configuration.

Still further, Nankai et al. fails to teach or suggest by any of its Figures, a biosensor comprising electrode arrays adjacent to a first end of the support and a channel having opposing ends and a concave inlet extending from the first end of the support, wherein each electrode array is positioned in the channel adjacent to one of the opposing ends of the channel, as recited in claim 24.

The modification of Nankai et al. cannot be motivated by hindsight in view of Applicants' specification. There is no motivation in the cited reference to modify the spacer (7) as taught by Nankai et al. to meet the requirements of the biosensor as defined by claim 24. Further, there is no motivation or suggestion in Nankai et al. to modify the positioning of the electrode arrays in accordance with claim 24.

Turning now to claim 25, Applicants ignored Nankai et al.'s teaching of the port (10) at the end of the space (8) and taught instead that it biosensor comprise "a generally linear capillary channel extending between the individual members, the channel having opposing first and second ends and an inlet aligned with the first edge of the support and the second edge of the cover, between the ends of the channel". Again, Nankai et al.'s port (10) illustrated in Figures 3-6 and 8-13, fail to teach or suggest such a configuration.

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Further, Nankai et al. fails to teach or suggest by any of Figures 3-6 or 8-13 a biosensor comprising a capillary channel having an inlet aligned with the first edge of the support and the second edge of the cover between the first and second electrode sets, as recited by claim 25.

Again, the modification of Nankai et al. cannot be motivated by hindsight in view of Applicants' specification. There is no motivation in the cited reference to modify the spacer (7) as taught by Nankai et al. to meet the requirements of the biosensor as defined by claim 25. Further, there is no motivation or suggestion in Nankai et al. to modify the positioning of the electrode sets in accordance with claim 25.

Regarding claim 26, Applicants ignored Nankai et al.'s teaching of the spacer (7) being comprised of an individual resin plate (Figures 4-6, 8-9, and 11-13) or of two parts (7) and (7') (Figure 10) and taught instead that it biosensor comprise "a spacer having individual first, second, and third members". Nankai et al. fails to provide a teaching or a suggestion in its text or by any of Figures 3-6 or 8-13 for modifying the reference to provide greater than two parts 7 and 7'.

In addition, Applicants again ignored Nankai et al.'s teaching of the port (10) at the end of the space (8) and taught instead a biosensor comprising "the channel extending between the three members and having an inlet positioned between the second and third members adjacent to the first end of the support and spaced-apart first and second opposite ends, the first opposite end being positioned between the first and second members and the second opposite end being positioned between the first and third members", as required by claim 26. Nankai et al. fails to provide a teaching or a suggestion in its text and Figures for modifying the reference in this regard.

Still further, Nankai et al. fails to teach or suggest by any of its Figures, a biosensor comprising a channel having opposing first and second ends and an inlet aligned with the first edge of the support and the second edge of the cover between the first and second electrode sets, as recited by claim 26.

The modification of Nankai et al. cannot be motivated by hindsight in view of Applicants' specification. There is no motivation in the cited reference to modify the

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spacer (7) as taught by Nankai et al. to meet the requirements of the biosensor as defined by claim 26. Further, there is no motivation or suggestion in Nankai et al. to modify the positioning of the electrode sets in accordance with claim 26.

In light of the above, it is submitted that Nankai et al. when taken as a whole, fails to disclose or suggest a biosensor comprising "a support having first and second ends, electrodes positioned on the support, the electrodes cooperating with one another to define electrode arrays situated adjacent to the first end, a spacer having individual members, and a cover cooperating with support to define a capillary channel extending between the individual members, the channel having opposing ends and a concave inlet extending from the first end of the support and being positioned between the opposing ends of the channel, each electrode array being positioned in the channel adjacent to one of the opposing ends", as required by claim 24. Claim 6 depends from claim 24.

It is further submitted that Nankai et al. when taken as a whole, fails to disclose or suggest a biosensor comprising "a support having a first edge, first and second electrode sets positioned on the support spaced-apart from one another, a spacer having individual members, and a cover having a second edge and extending across the first and second electrode sets, the cover cooperating with the support to define a generally linear capillary channel extending between the individual members, the channel having opposing first and second ends and an inlet aligned with the first edge of the support and the second edge of the cover, between the ends of the channel, and between the first and second electrode sets", as required by claim 25. Claims 10-15 depend from claim 25.

Still further, it is submitted that Nankai et al. when taken as a whole, fails to disclose or suggest a biosensor comprising "a support having first and second ends, electrodes positioned on the support, the electrodes cooperating with one another to define electrode arrays situated adjacent to the first end, a spacer having individual first, second, and third members, and a cover cooperating with support to define a capillary channel, the channel extending between the three members and having an inlet positioned between the second and third members adjacent to the first end of the support and spaced-apart first and second opposite ends, the first opposite end being

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positioned between the first and second members and the second opposite end being positioned between the first and third members, each electrode array being positioned in the channel adjacent to one of the opposite ends", as recited by claim 26. Claims 21-23 depend from claim 26.

It is respectfully contended that the differences between the claimed invention and the cited art are such that Applicants' invention as a whole would not have been obvious to one of ordinary skill in the art at the time the invention was made. It is respectfully contended that the claimed invention meets the test of patentability under 35 U.S.C. 103(a). Entry of the amendments and withdrawal of the rejections leading to allowance of the claims is respectfully requested.

The claims as submitted herein are believed to be in condition for allowance, and allowance of the application is respectfully requested. In addition, it is requested that if necessary that this paper be considered a request for extension of time sufficient to effect a timely response and that that all fees due be charged to Deposit Account Number 02-2958 with reference to (WP 19301 US).

Respectfully submitted,

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